**Senate Committee on Environment and Public Works**
**Hearing Entitled, *"Hearing on the Nomination of Joseph Goffman to be Assistant Administrator for the Office of Air and Radiation, at the Environmental Protection Agency"***
**March 1, 2023**
**Questions for the Record for Joseph Goffman**

**Senator Kelly:**

1. I understand that EPA has recently proposed new National Ambient Air Quality Standards for particulate matter smaller than 2.5 microns, also known as PM 2.5. If finalized, these new regulations would put both Maricopa and Santa Cruz County into non-attainment for PM 2.5. From talking with air officials in both countries, there is some concern that setting the air quality standards too low could make it impossible for either county to get out of non-attainment, due to the background levels of PM 2.5 present in the area, and sources of emissions from outside of the region's control. As the EPA developed these proposed rules, what scientific evidence did EPA consider, and how will EPA consider an air region's ability to attain a particular standard, as you look to finalize these rules?

   **Over the last 50 years, we have seen that cleaner air and economic growth go hand in hand. Air quality standards can promote innovation and a healthier, more productive economy. Particle pollution, or "soot" is one of the most dangerous forms of pollution, and a growing body of science has linked it to a range of serious and sometimes deadly illnesses. The National Ambient Air Quality Standards for particulate matter are a vital health protection that must be based on the best available health science, which is why we recently proposed to update and significantly strengthen the fine particulate annual NAAQS from its current level of 12 micrograms per cubic meter (ug/m3) to a level within the range of 9-10 ug/m3. As we describe in considerable detail in the proposal itself, a revised level within the proposed range of 9-10 ug/m3 is supported by the scientific evidence, outlined in the Integrated Science Assessment and reviewed by the Clean Air Scientific Advisory Committee. The public comment period on the proposal is open until March 28, 2023.**

   a. Given that a significant source of PM 2.5 is wildfire smoke, what steps is your office currently taking to ensure areas pushed into non-attainment are not penalized for PM 2.5 emissions from wildfires?

   **We recognize that states and many stakeholders have concerns about the challenges that both wildfires and prescribed fires pose when it comes to meeting air quality standards for particulate matter. EPA's Exceptional Events Rule and related guidance under the Clean Air Act provide an approach to address air quality impacted by wildland fire, including both wildfires and prescribed fires, in the context of certain regulatory actions. The Exceptional Events Rule contains specific provisions for prescribed fires on wildland, and EPA recognizes the importance of prescribed fire as a land management tool. We intend to continue working with states,**

**air quality management districts, federal land managers, and other stakeholders to ensure we are providing the air quality related tools and resources needed to support wildland fire mitigation activities while also protecting human health and the environment consistent with the Clean Air Act. Separate from these regulatory issues, it is also important to recognize that particulate matter, and smoke, from any source has negative health impacts – whether it's a wildfire or prescribed fire. EPA and our state, local, Tribal and federal partners need to continue working together to reduce exposure, especially for those most vulnerable and EPA remains committed to doing so.**

b. In Arizona, another major source of PM 2.5 is industrial emissions from Mexico. How does EPA account for those emissions, as you prepare to implement a more stringent PM 2.5 rule?

**EPA recognizes that the air quality in certain areas within the United States, particularly those near international borders, can be affected by pollution that originates in another country. Clean Air Act section 179B provides certain regulatory flexibilities for air agencies who develop and submit a demonstration showing that a nonattainment area would be able to attain and maintain, or would have attained, the relevant National Ambient Air Quality Standard but for emissions emanating from outside the United States. EPA has the authority to review and assess submitted Clean Air Act section 179B demonstrations and provide the regulatory relief specified in section 179B if the submitted demonstration establishes to the satisfaction of the Administrator that the implementation plan of such state would be adequate to attain and maintain the relevant national ambient air quality standards by the attainment date, but for emissions emanating from outside of the United States.**

**While section 179B can be an important tool for providing specified regulatory relief for air agencies, it is important to note that this flexibility is only available after an area has already been designated nonattainment. Section 179B does not provide a basis for either excluding air monitoring data influenced by international transport from regulatory determinations related to attainment and nonattainment or redesignating an area to attainment. EPA's approval of a section 179B demonstration also does not relieve air agencies with nonattainment areas of having to meet the remaining applicable planning or emissions reduction requirements in the Clean Air Act**

2. Arizona is in the midst of a historic drought – which is forcing some Arizona water users to take significant water cuts. Many of these cuts are being born by our agricultural community – meaning more and more farmland is being left to fallow. As you can imagine, dry, unused farmland is more likely to be a source of particulate air pollution. As EPA is considering changes to particulate matter air quality regulations, how are you accounting for the effects of Arizona's longstanding drought on the ability of our communities to come into compliance?

a. What technical assistance is EPA able to provide to Arizona communities to help them develop mitigation strategies for particulate matter that do not require significant water use?

**I recognize the unique nature of the air quality planning challenges Arizona faces with its climate and its growing economic and population base. EPA's Office of Air and Radiation and EPA Region 9 are available to work with Arizona DEQ, local government organizations, Tribes in Arizona, and any other relevant parties to ensure that Arizonans can benefit from clean, healthy air while allowing the Arizona economy to continue to grow.**

**EPA Region 9 has previously approved rules for Pinal County to control dust from croplands and other areawide sources, including fallow fields. These rules allow farmers to select among many best management practices, several of which do not involve significant water use (e.g., artificial wind barriers and mulching). Non-watering control options similarly apply for construction sites and paved roads (e.g., application of chemical stabilizers or dust suppressants, vehicle speed reduction, and sweeping) and unpaved roads (e.g., paving, graveling, and chemical stabilization).**

**EPA Region 9 staff are working with Arizona to help develop reasonable controls for PM10 sources in the area. EPA is committed to working with the Arizona DEQ and stakeholders to ensure that all areas of Arizona, including Pinal County and Yuma County, continue to achieve air quality improvements with rules that meet federal requirements.**

3. Administrator Regan recently discussed EPA's integrated strategy to reduce air emissions from the power sector and said that the strategy would ensure continued provision of reliable and affordable electricity to consumers. In Arizona we are seeing unprecedented growth in electricity demand – especially in our long, hot summer months. At the same time, our historic drought is threatening hydropower assets in Arizona – especially at Glen Canyon Dam. Given these factors, how will EPA consider energy affordability and threats to grid stability in the western United States as EPA moves forward on new and revised air quality regulations?

**Whenever EPA works on clean air protections for the power sector, we put ensuring reliability in a top priority position right alongside affordability and achieving cleaner and healthier air. Families and businesses all across America depend on having a reliable supply of affordable electricity for their livelihoods and well-being, and we take reliability considerations very seriously in developing regulations.**

**In over 50 years of implementing the Clean Air Act, EPA and OAR have established a strong track record of developing air quality protections that save lives, deliver clean and healthy air, and allow power companies to deliver reliable and affordable electricity. That's not by accident. As we work on any clean air rule for the power sector – including the rules we are developing right now – we carefully assess**

**implications for electric reliability and cost as an integral part of our technical analysis, and where appropriate build in policy features that are specifically intended to support the industry's ability to ensure reliability.**

**EPA also actively engages directly with the electricity sector in the course of our rulemakings, including system operators, state regulators, DOE, FERC, and other parties that have responsibility for ensuring reliability and affordability in the electric supply. In addition, DOE and TVA, among other agencies, participate in interagency reviews of rules before they are signed. We also engage broadly with stakeholders who are responsible for reliability in the power sector, including investor-owned utilities; municipal utilities; rural electric cooperatives; state energy and environmental regulators; and grid operators to make sure we are working from the best possible information and addressing reliability issues appropriately. Lastly, we regularly confer with other expert agencies like DOE and FERC outside the interagency review process.**

**In support of our work addressing reliability, the Department of Energy (DOE) and EPA signed a Joint Memorandum of Understanding (MOU) on Interagency Communication and Consultation on Electric Reliability on March 9. This agreement provides a framework for both agencies to unlock the reliability advantages of the growing clean energy economy. It builds upon longstanding engagement from DOE and EPA with the power sector and further commits the agencies to routine and comprehensive communication about policies, programs, and activities regarding electric reliability. This includes sharing information and analysis, and ongoing monitoring and outreach to key stakeholders to proactively address reliability challenges.**

4. I understand that EPA is moving forward with new regulations to reduce greenhouse gas emissions from new and existing fossil-fuel-fired power plants. When the agency released the proposed Clean Power Plan in 2014, the rule would have mandated the retirement of all existing coal generation in the state by 2020 – a timeline that would have had disproportionate impacts on Arizona. As a result, at least in part, of extensive comments and technical data submitted by Arizona stakeholders, EPA established more workable timelines and targets for Arizona. I recognize that you led the efforts within EPA at that time to listen to the concerns raised by Arizona stakeholders. As EPA moves closer to issuing its next set of carbon rules, Arizonans would like assurance from EPA that the agency will proactively engage with the state to ensure these rules won't cause significant disruption to utility resource plans and force adoption of dramatically more expensive and uncertain paths to decarbonization. Can you provide this assurance?

**EPA plans to propose carbon pollution standards for new fossil fuel-fired power plants and carbon pollution emissions guidelines for existing fossil fuel-fired power plants later this spring. The Clean Air Act lays out a central role for states in developing plans to meet the emissions guidelines. EPA is committed to working with states as we develop the proposed and final emission guidelines to ensure smooth implementation. We look forward to working with the Arizona Department of**

**Environmental Quality (ADEQ) and Arizona utilities to receive their feedback on the proposals through the public comment process, and, along with EPA's Region 9, we will continue that cooperation to assist ADEQ in developing a state plan for any emissions guidelines we finalize.**

5. The EPA recently reclassified the Phoenix-Mesa 2015 ozone nonattainment area from Marginal to Moderate nonattainment. The EPA also announced that they are reconsidering the 2020 decision to retain the 2015 ozone NAAQS and is considering lowering the current ozone standards to levels that are near or at the measured background levels in the western U.S. Without a new approach by the EPA for the development of demonstrations for nonattainment areas affected by ozone transport, particularly international transport, achieving the ozone standard will be nearly impossible. Will you increase the flexibility to EPA's approach to implementing requirements of the Clean Air Act, particularly for ozone transport, exceptional events, and emission reduction credits (ERCs)?

   **EPA is committed to working with air quality planners, including Arizona and the tribal nations within Arizona, to implement the ozone national ambient air quality standards. The Clean Air Act has a proven track record of delivering cleaner, healthier air alongside a strong economy. EPA has been working with Arizona on implementation tools that recognize the unique situation that Arizona faces and we will continue to do so.**

**Ranking Member Capito:**

1. Please list all rulemakings that are part of the EPA's "EGU (Electric Generating Unit) Strategy."

   **Administrator Regan recognizes that EPA has a responsibility to protect the public from harmful pollution from the power sector – and how important it is that we do so in a way that provides regulatory certainty and a long-term planning horizon that allows states, grid operators, and power companies to make good investment and planning decisions and preserves the ability of the industry to deliver reliable and affordable electricity. As a result, he has directed the Office of Air and Radiation to address not just the significant greenhouse gas emissions from power plants, but also the full range of public health and environmental impacts linked to power plant air pollution. Many of these impacts all too often fall most heavily on our most vulnerable and overburdened communities. We are committed to using all the tools at our disposal to meet that important goal and have been developing a suite of actions under the Clean Air Act as well as engaging with states, tribal nations, power companies/electric cooperatives/municipal power providers, RTOs/ISOs, DOE and FERC, and many other stakeholders to inform that work. Administrator Regan discussed EPA's approach to deliver certainty for the power sector and ensure significant public health benefits in March of 2022. His prepared remarks are available at (https://www.epa.gov/speeches/administrator-michael-regan-remarks-ceraweek-about-epas-approach-deliver-certainty-power).**

**He discussed the following OAR regulations in that speech:**

- **Mercury and Air Toxics Standards for Power Plants**
- **MATS Residual Risk and Technology Review**
- **Clean Air Act "good neighbor" obligations for the 2015 Ozone National Ambient Air Quality Standards**
- **Emission guidelines for carbon dioxide pollution from existing power plants under section 111(d)**
- **Revisions to the greenhouse gas standards for new power plants under section 111(b)**

2. For each rule listed in response to the question above, please list the anticipated proposal date (if not yet proposed) or finalization date (if already proposed).

**The time frames for the OAR regulations that Administrator Regan mentioned in his March speech are:**

- **Mercury and Air Toxics Standards for Power Plants (Re-Affirmation of the Appropriate and Necessary finding) / notice of final rulemaking March 6, 2023**
- **MATS Residual Risk and Technology Review / Expected notice of proposed rulemaking April 2023**
- **Clean Air Act "good neighbor" obligations for the 2015 Ozone National Ambient Air Quality Standards / expected finalization March 2023**
- **Emission guidelines for carbon dioxide pollution from existing power plants under section 111(d) / expected notice of proposed rulemaking April 2023**
  **Revisions to the greenhouse gas standards for new power plants under section 111(b) / expected notice of proposed rulemaking April 2023**

3. The EPA presentation made on February 15, 2023 entitled "EPA IRA Power Sector Impacts" (hereinafter "EPA Presentation") at a Resources for the Future event included 11 slides and presented summary information of EPA modeling results. We discussed this presentation during your hearing. Please provide the underlying modeling results on which the presentation is based.

**As you note, EPA staff from the Office of Air and Radiation participated in an event sponsored by Resources for the Future held on February 15, 2023, titled "Future Generation: Exploring the New Baseline for Electricity in the Presence of the Inflation Reduction Act." The event explored how the electricity sector is expected to change in the coming decades as a result of the Inflation Reduction Act (IRA) and Infrastructure, Investment, and Jobs Act (IIJA). The EPA presentation, as you noted at the hearing, included preliminary modeling results projecting impacts of the IRA, including projections of major growth in clean and renewable technologies, driven by tax credit incentives, resulting in decreases in fossil fuel use. The workshop included presentation of interim results from modeling that is still undergoing review and documentation. As soon as this modeling is ready to publish, we will update our website at https://www.epa.gov/power-sector-modeling with detailed input and**

**output data files as well as full documentation of the modeling framework and assumptions.**

**The power sector model that EPA used for that presentation is called the Integrated Planning Model (IPM), which is a long-term dynamic linear programming model of the U.S. power sector that aims to reflect scenarios for meeting energy and peak demand at lowest cost over the projection period subject to constraints, including transmission constraints, fuel markets, resource supply, and emission limits. The IPM is populated with information related to operating units, planned builds, and planned retirements, and is able to add new capacity, retrofit or retire existing capacity, and alter dispatch in order to meet demand over the projection period at the lowest cost. Initial modeling results accounting for IRA provisions show an 80% reduction from 2005 levels of power sector CO2 emissions by 2040, compared to a 55% reduction projected before the IRA was enacted.**

4. Slide 4 of the EPA Presentation lists five tax credit provisions in the Inflation Reduction Act (IRA). Are those the only IRA provisions included in the modeling results summarized in the EPA Presentation?

   **Slide 4 lists six tax credit provisions from the IRA; the first bullet contains two provisions. Those six are the provisions included in the preliminary modeling results summarized in the EPA presentation.**

5. Will all analyses of future EPA rulemakings now include the effects of the five tax credit provisions from the IRA listed on Slide 4 of the EPA Presentation in EPA's modeling baseline, and will that influence future cost-benefit analyses of rulemakings?

   **EPA intends to include the six provisions referenced in response to Senator Capito's question #4, except certain regulatory actions already underway where power sector modeling was conducted before the IRA was enacted and its provisions could be incorporated into EPA's power sector modeling. EPA's power sector modeling for any given regulatory impact analysis includes documentation of laws and regulations that are represented in the modeling baseline. That information is publicly available as the associated regulatory action is issued at https://www.epa.gov/power-sector-modeling.**

6. Slide 5 of the EPA Presentation presents a national map of changes in "clean electricity share." Which types of generation sources qualify as "clean electricity" for purposes of this analysis?

   **Electricity generation shares for the maps used on this slide of the presentation include only generation from zero-emission sources. In the modeling conducted, these sources include: wind, solar, nuclear, hydro, energy storage, geothermal, and non-fossil waste.**

7. Does the EPA's modeling predict an increase in nuclear electricity generation between now and 2040?

   **EPA modeling provides projections; EPA's modeling cannot provide predictions. EPA's preliminary modeling projects a decrease in nuclear electricity generation between 2021 reported levels and 2040 projections.**

   **The workshop where the post-IRA 2022 Reference Case was discussed included presentation of interim results from modeling that is still undergoing review and preparation of full documentation. Nuclear generation in that post-IRA scenario is higher compared to the Pre-IRA 2022 Reference Case, but still projected to be lower than 2021 reported levels. The increase in projected nuclear generation between the two scenarios is from delayed retirements from the existing fleet under a future with the IRA compared to a future without the IRA.**

   **As soon as this modeling is ready to publish, we will update our website at https://www.epa.gov/power-sector-modeling with detailed input and output data files as well as full documentation of the modeling framework and assumptions.**

8. In January 2023 the White House issued its guidebook for implementing the Inflation Reduction Act (IRA), entitled "Building a Clean Energy Economy." That document indicates which program office will administer each section of the IRA within the Environmental Protection Agency's jurisdiction. According to that document, the Office of Air and Radiation (OAR) will administer approximately 14 programs established in the IRA. Can you confirm which sections of the IRA that the OAR has responsibility over implementing?

   **OAR has responsibility within EPA for implementing Sections 60101, 60102, 60104, 60105(a)-(g), 60106, 60107, 60108, 60109, 60111, 60113, and 60114 of the Inflation Reduction Act.**

9. Notably the White House guidebook specifies that the Office of the Administrator, not the OAR, will implement the $27 billion Greenhouse Gas Reduction Program established as Section 134 of the Clean Air Act in section 60103 of the IRA. Why is this program not being implemented through the Office of Air and Radiation, which is generally responsible for administering the Clean Air Act?

   **The Greenhouse Gas Reduction Fund is currently being implemented through the Office of the Administrator as part of the agency's overall plan to effectively implement over $100 billion in new appropriations across more than 70 programs supported through the Bipartisan Infrastructure Law (BIL) and the Inflation Reduction Act (IRA). Implementing this program in the Office of the Administrator allows the agency to draw from expertise most effectively across EPA and the broader federal government. The Greenhouse Gas Reduction Fund team meets regularly with our experts in OAR, and EPA's leadership is focused on ensuring investments across the agency are well-aligned for maximum impact.**

10. Nothing in the Inflation Reduction Act changes the EPA's authority to regulate greenhouse gas emissions from power plants as it relates to the holding in *West Virginia v. EPA,* correct? If you disagree, please cite and explain the changes within the Inflation Reduction Act to these relevant authorities.

    **In West Virginia v. EPA, the Supreme Court held that EPA did not have the authority to adopt generation-shifting as the best system of emission reduction ("BSER") as part of its emission guidelines for power plant greenhouse gas emissions under Clean Air Act section 111(d). The Inflation Reduction Act did not include provisions addressing EPA's authority to adopt generation shifting as the BSER under Clean Air Act section 111.**

11. In order to comply with the Byrd Rule, provisions within reconciliation legislation may include, at most, only "merely incidental" policy impacts beyond their budgetary effects. Do you agree that the Clean Air Act sections in the IRA were budgetary and did not represent substantial changes in policy nor provide the EPA with new authorities to regulate emissions from power plants?

    **It is EPA's understanding that the authority to determine parliamentary matters in the Senate resides with the Senate itself, including compliance with the Byrd Rule, advised by the Senate parliamentarian.**

12. In the EPA's supplemental proposal to regulate methane emissions from the oil and natural gas sector (*Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review*), the EPA proposed a new "super-emitter response program." Under this proposal, the EPA would approve and authorize "any third party, including but not limited to technology vendors, industry, researchers, non-profit organizations, or other parties demonstrating technical expertise as described" that is interested in monitoring for and identifying so-called "super-emitter" emissions events and notifying the sources. Owners and operators would be required to verify that emissions are linked to their site and act on notifications from approved third parties. Under what provision of the Clean Air Act does the EPA claim authority to authorize third parties to notify regulated sources of events that they would be required to act on (i.e., enforce compliance on regulated sources) in the proposed regulatory text, 40 CFR 60.5388c(c)?

    **The EPA proposed the "super-emitter response program" under section 111 of the Clean Air Act, which authorizes the EPA to set new source performance standards that reflect what the Administrator determines to be the "best system of emission reduction," as well as establish necessary compliance assurance measures to achieve the emission reductions. The EPA would also set emission guidelines under section 111 that States would use to set standards for reducing such emissions from existing sources within their States.**

13. Could a foreign government that demonstrates technical expertise qualify as a third-party identifier? What about an organization under the control or influence of a foreign government?

    **EPA received a range of comments regarding the super-emitter response program as part of the more than 400,000 comments received on the Agency's supplemental proposal for oil and natural gas operations. We are currently evaluating the public comments we received, including comments regarding which third parties could be authorized third parties under the program.**

14. Would the EPA consider approving a nonprofit organization that lobbies against the exploration, development, production, or consumption of oil and gas as a third-party identifier?

    **See answer to Senator Capito's question #13.**

15. Are there any qualified third-party identifiers that the EPA would automatically not consider for approval? What would be an example justification of such a disapproval?

    **See answer to Senator Capito's question #13.**

16. In the EPA's proposal to update the National Ambient Air Quality Standards (NAAQS) for fine particulate matter ($PM_{2.5}$) (*Reconsideration of the National Ambient Air Quality Standards for Particulate Matter*), the draft Regulatory Impact Analysis states that many of the required emission reductions will come from controls on smaller sources and businesses that may not even be aware of the program's existence or impact. Has the EPA reached out to any of these potentially affected groups to discuss the potential impacts? Has the EPA undertaken – or does the Agency intend to undertake – a Small Business Regulatory Enforcement Fairness Act (SBREFA) process with regards to this rulemaking, including a Small Business Advocacy Review Panel?

    **The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), requires EPA to convene a Small Business Advocacy Review (SBAR) Panel for proposed rules that are subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. As the proposal certifies, the NAAQS themselves do not impose any regulatory requirements on small entities. States have broad discretion to identify and implement control strategies to ensure attainment and maintenance of the NAAQS once EPA has promulgated them. The Regulatory Impact Analysis for the proposed standards provides illustrative examples of a limited number of potential control strategies that states might adopt in the first instance. Ultimately, during the implementation process, states have broad discretion to decide what control strategies and policies are appropriate to meet a standard given their specific circumstances.**

17. On October 5, 2022, your office proposed to disapprove California's proposed plan to attain the existing 2012 annual $PM_{2.5}$ standard for San Joaquin Valley. Given the significant

and ongoing challenges California has faced in attaining *existing* $PM_{2.5}$ standards, what basis is there to assume that areas in the state of California can fully attain the *newly proposed* $PM_{2.5}$ standards?

**EPA is proposing to revise the level of the primary, health-based annual standard because the available scientific evidence and technical information indicate that the current standard may not be adequate to protect public health with an adequate margin of safety, as required by the Clean Air Act (CAA). By law, EPA cannot consider costs of implementation when reviewing or revising NAAQS. EPA is committed to continuing to work with the California Air Resources Board, the San Joaquin Valley Air Pollution Control District, and stakeholders to address PM2.5 air pollution in the San Joaquin Valley area.**

18. Unlike previous NAAQS rulemakings, the EPA failed to provide the public with estimates of the full costs of attaining the recently proposed $PM_{2.5}$ standards. Why did the EPA depart from this precedent? Will you be providing estimates of full costs before finalizing any regulation to update the $PM_{2.5}$ standards?

**As a matter of course in Agency rulemakings and per relevant federal executive orders and guidance, EPA prepares a regulatory impact analysis (RIA) to quantify the likely benefits and costs of certain regulatory options. Describing the effects of EPA rules is an important part of our obligation to be transparent in how we conduct our analyses. Each RIA is prepared in accordance with Executive Orders and OMB guidance, and the Agency's guidelines for economic analyses. The RIA for this proposal is available at https://www.epa.gov/system/files/documents/2023-01/naaqs-pm_ria_proposed_2022-12.pdf.**

19. Last November, the US Government Accountability Office (GAO) issued a report on small refinery exemptions and made seven recommendations, including five recommendations to the EPA. Do you commit to implementing all of GAO's recommendations? Is there any progress on this effort you can share at this time?

**The GAO report had a number of recommendations for EPA regarding the inconsistency of past decisions and documentation of our workflow and communications with DOE. EPA takes seriously GAO's critique of our historic implementation of the program with regard to these process considerations and it is the Agency's intent to make further improvements to those elements of the program in response to this report. We are currently working with DOE on this. The GAO report also made recommendations related to the analysis of whether small refineries face disproportionate RIN costs, based on a flawed draft GAO analysis that led to flawed conclusions and recommendations, as discussed further in response to Senator Capito's question 20.**

20. In the report, GAO found "small refineries have paid more on average for compliance credits than large refineries." Do you agree with GAO's finding?

**EPA does not agree with the GAO's finding given that EPA's analysis, published in December 2022, estimated that small refineries paid 2.6% ($0.023) more per D4 RIN and 0.2% ($0.001) less per D6 RIN. As EPA noted to GAO, we consider such small variations as not significant in evaluating potential hardship under the program and believe that these very minor variations may in fact simply be sampling noise in the data and not reflective of an actual market condition. This seems particularly likely when noting that the data shows small refineries paid less not more than large refineries in buying the D6 RIN category, which makes up approximately 70% of a company's RFS compliance obligation.**

**GAO recommended that EPA reconsider our conclusion that refineries pay the same cost to acquire RINs whether blending or buying them directly, although the analysis GAO conducted in reaching that recommendation evaluated a different question entirely. Specifically, GAO evaluated if small refineries pay the market price for RINs bought on the open market or if they must pay a premium over the market price. EPA pointed to an error in GAO's draft analysis, which when corrected, changed GAO's analysis from a nearly 40 percent difference to a difference of 2.4 percent; however, GAO's faulty conclusion and recommendation were left unchanged.**

**While EPA and DOE will continue to evaluate fuel contracts and market data provided by small refineries in evaluating new petitions, we see no need to reconsider EPA's prior evaluation of the cost to acquire RINs from blending or buying RINs especially given GAO did not even evaluate that question.**

21. The EPA is currently updating regulations under 40 CFR 63 Subpart BBBBBB (40 CFR Subpart BBBBBB-National Emission Standards for Hazardous Air Pollution [NESHAP] Gasoline Bulk Terminals). The proposal would reduce the threshold for exemption from EPA vapor balance requirements from 20,000 gallons of *throughput* per day to application for tanks larger than 4,000 gallons of maximum *capacity*. The costs of compliance for these far smaller terminals may lead to their exiting the market, which will disproportionately impact the cost and availability of fuels in agricultural and rural states, like West Virginia. I fear that the EPA has underestimated the economic impact on these communities. Has the EPA undertaken – or does the Agency intend to undertake – a Small Business Regulatory Enforcement Fairness Act (SBREFA) process with regards to this rulemaking, including a Small Business Advocacy Review Panel? Will you commit to considering the impacts – and modifying the EPA proposal as warranted – of this regulation on rural and agricultural fuel markets?

**EPA is currently reviewing the comments received on the proposal for Subpart BBBBBB NESHAP Bulk Gasoline terminals, and the concerns you cited were raised in the comments. EPA will consider all timely comments and potential impacts as it prepares a final rule. EPA anticipates issuing a final rule by August 30, 2023.**

**The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), requires EPA to convene a Small Business Advocacy Review (SBAR) Panel for most proposed rules unless the agency can certify that a rule will not have a significant economic impact on a substantial number of**

**small entities. The proposal certified that each of the rules included within the proposed action will not have a significant economic impact on a substantial number of small entities (87 Fed. Reg. at 35,641–42).**

22. With regards to the NESHAP for Gasoline Bulk Terminals, has the EPA done any modeling on the emissions impact of operating the vapor balancing equipment for storage and cargo tanks compared to the baseline? Will operating this equipment lead to more greenhouse gas emissions than it prevents in capturing fugitive vapors?

    **Vapor balancing refers to a control option where vapors from one source (either a storage tank or a cargo tank) are displaced during a loading operation and routed to the storage or cargo tank that is the source of the liquids being loaded. The approach results in reductions of volatile organic compounds because these displaced emissions are captured rather than being emitted. Compressors are not typically needed to return the vapors to the originating storage or cargo tank. EPA does not expect that there are additional GHG emissions from vapor balancing.**

    **EPA proposed National Emission Standards for Hazardous Air Pollutants: Gasoline Distribution Technology Review and Standards of Performance for Bulk Gasoline Terminals Review on June 10, 2022. We are currently reviewing the comments received on that proposal, including comments regarding vapor balancing.**

23. We understand that you recently self-reported to the Environmental Protection Agency's Inspector General a potential lapse in the screening process outlined in your recusal agreement dated June 30, 2021. Please detail what portion of the existing Screening Arrangement in your recusal agreement failed.

    **I take my ethical obligations extremely seriously. OAR staff and I are already working to identify opportunities to ensure that I meet those obligations fully and to improve the consistency and redundancy of the screening process in support of my meeting those obligations. I have been and will continue to cooperate fully with the Office of the Inspector General (OIG) and look forward to working with the OIG on identifying potential improvements to the screening process.**

24. Following this potential lapse, will you update your recusal agreement?

    **See answer to Senator Capito's question #23.**

25. What actions are you taking to improve the screening process in the future?

    **See answer to Senator Capito's question #23.**

26. Will you cooperate fully with any investigations or reviews of this incident?

**See answer to Senator Capito's question #23.**

**Senator Cramer:**

1. Mr. Goffman, during your nomination hearing last May, I asked if you had contacted North Dakota's three Public Service Commissioners Julie Fedorchak, Randy Christmann, and Sheri Haugen-Hoffart, and the Director of North Dakota's Department of Environmental Quality (NDDEQ), Dave Glatt, while you examine potential rulemaking options to reduce emissions from power plants. You stated contact had not been made, but committed to doing so in both your verbal and written answers. Unfortunately, even after my office passed along their contact information, during last week's hearing, I asked if you had contacted them since the hearing and you stated you have not.

    a. Will you uphold your commitment to engage with Director Glatt at NDDEQ and Commissioners Fedorchak, Christmann, and Haugen-Hoffart as you examine options before introducing a new rulemaking for stationary source emissions under the Clean Air Act?

**I will. EPA has reached out to schedule meetings with Director Glatt and Commissioners Fedorchak, Christmann, and Haugen-Hoffart, and key members of the Office of Air and Radiation team developing our proposals for carbon pollution standards for new fossil fuel-fired power plants and carbon pollution emissions guidelines for existing fossil fuel-fired power plants. We anticipate those meetings will occur this month (March).**

2. Mr. Goffman, during your recent hearing, I asked you about EPA's supplemental methane rule and conveyed North Dakota's unique challenges to capturing associated methane. Oil development happens within the western part of North Dakota where there is a much greater preponderance of federal land, such as U.S. Forest Service, Bureau of Land Management, and National Park Service. Further, the heart of the Bakken underlies the Fort Berthold Indian Reservation where the federal government's regulatory system and trust relationship takes hold. This federal control makes permitting incredibly difficult to complete, including new midstream infrastructure or capacity upgrades. North Dakota boasts a 95% capture rate outside of the Fort Berthold Indian Reservation, but in areas primarily under the authority of the federal government this high performance quickly disintegrates, dropping to as low as 59%. The methane supplemental only allows for operators to flare gas if they are able to demonstrate to a professional engineer that all options for beneficial use are infeasible due to a technical or safety reason. Access to a sales line or other beneficial uses, particularly developing ones, are not always available and sometimes other federal agencies are the ones standing in the way.

    a. Would a federal agency's inaction be considered a technical reason an operator could flare under this regulation?

**EPA received a range of comments regarding the proposed standards for associated gas and flaring as part of the more than 400,000 comments we received on the supplemental proposed rulemaking to reduce methane from oil and natural gas operations. We are currently**

**evaluating the public comments, including comments regarding flaring and challenges with permitting and infrastructure upgrades.**

b. What have you done or plan to do to make sure other federal agencies are not inhibiting greater methane capture rates?

**In November 2021, President Biden announced the U.S. Methane Emissions Reduction Action Plan, and in numerous other instances the Biden-Harris Administration has announced initiatives and actions to use all available tools—commonsense regulations, catalytic financial incentives, transparency and disclosure of actionable data, and public and private partnerships—to identify and reduce methane emissions. These cost-effective actions will dramatically reduce greenhouse gas emissions, cut leaks, waste, and consumer costs, protect workers and communities, maintain and create high-quality, union-friendly jobs, and promote U.S. innovation and manufacturing of critical new technologies. This include actions by EPA and other federal departments agencies to promote methane capture.**

**EPA regularly coordinates with other federal agencies such as the Bureau of Land Management and the Pipeline and Hazardous Materials Safety Administration to discuss how our standards and practices are being developed.**

c. Last April, Administrator Regan assured me methane regulations were taking a whole of government approach. How will the NEPA categorical exclusions for producers on federal and tribal land authorized in the Infrastructure, Investment and Jobs Act impact the EPA's regulation of methane?

**Section 11318 of the Infrastructure Investment and Jobs Act authorizes the Secretary of the Interior categorically exclude "gathering line(s) and associated field compression or pumping unit(s)" that are located on federal or tribal land.**

**EPA's Office of Policy has the lead role for NEPA at EPA. If confirmed, I will continue to work with my colleagues in the Office of Policy and the Department of the Interior, as needed, to fulfill the duties assigned to me in EPA's Office of Air and Radiation.**

d. In the rule, EPA admits the United States will produce 21 million fewer barrels of oil and 258 million fewer Mcf of natural gas a year in 2026. Many commenters have identified this regulation and others as costly to implement, especially for wells with small production, and may very well result in closure. Is it your intent to reduce domestic energy production and shut-in low producing wells, many of which are owned by small businesses?

**In the November 2022 supplemental proposal, the EPA proposed a cost-effective approach to ensure that every well site, regardless of size, is regularly monitored. This new approach is designed to achieve more comprehensive reductions in leaks from well sites while streamlining compliance for owners and operators. The revised program would tie leak monitoring requirements to the types and amount of equipment at a site, rather than to**

**estimated emissions, which will make it simpler for owners and operators to determine which monitoring requirements they must meet at a site. EPA also expects that the proposal would deliver significant economic benefits through increased recovery of waste gas.**

**This approach removes exemptions from routine monitoring for well sites with lower emissions, which EPA had proposed in 2021, and it adds audio, visual and olfactory (AVO) inspections, where inspectors listen, look and smell for leaks, for smaller well sites. EPA proposed monitoring and repair programs for small well sites, which are defined as single wellhead well sites that have no controlled storage vessels, control devices, pneumatic controller affected facilities or pneumatic pump affected facilities, and include only one other piece of major production and processing equipment. Small well sites must conduct quarterly AVO inspections and repair any identified leaks within 15 days. Monitoring must continue until the small well site has been closed including plugging the wells at the site and submitting a well closure report.**

**EPA received a range of comments regarding the proposed standards as part of the more than 400,000 comments we received on the supplemental proposed rulemaking to reduce methane from oil and natural gas operations. We are currently evaluating the public comments, including comments regarding small operators.**

**Senator Lummis:**

1. On December 20, 2022, EPA released a technical analysis of RIN prices in response to a recommendation by GAO. EPA analyzed over 2 million transactions for approximately 140 billion RINs and determined that large refineries do in fact pay a lower price for RINs, which is the same conclusion drawn by GAO. In light of these conclusions, will EPA re-evaluate its plans to relief on the basis that all refineries' compliance costs are the same?

   **EPA does not agree with GAO's finding and does not intend to revisit previous decisions. Please see the answer to Senator Capito's Question # 20 for a more detailed response related to the analysis of RIN prices faced by small refineries.**

2. Two circuit courts of appeal stayed a group of small refineries' compliance obligations to avoid the irreparable harm that would occur if they were forced to comply with five years of RFS compliance in a 14-month period. If these denials result in the insolvency of small refineries, is that an outcome that EPA would find acceptable? In other words, are you comfortable with small refineries closing because EPA denied them relief?

   **Given the stay actions, these small refineries will not have to meet their RFS obligations at this time.**

3. EPA has stated it has no intention of granting small refinery hardship relief again, despite GAO's findings and the statutory text allowing small refineries to seek and secure hardship relief "at any time." Will EPA reconsider its decision to abandon the program, particularly given a recent court of appeal's order that said: "EPA's 'new interpretation'—which quite

possibly will read the exemption framework promulgated by Congress out of the statute entirely, such that no small refinery will ever qualify for one—is thus likely contrary to law"?

**Since EPA's actions in April and June 2022, EPA has received petitions from small refineries seeking exemption and we continue to review those petitions, in consultation with DOE.**

4. The GAO found that EPA's implementation of the hardship program has created market uncertainty, thereby undermining the design of the RFS. EPA has rejected small refineries' requests for regulatory reforms to the RIN market that would address this uncertainty, including provisions that only allow obligated parties to buy RINs. Wouldn't you agree that removing market speculation and fraud in the RIN market is needed and what steps are you taking to make that happen?

   **EPA takes seriously concerns regarding the potential for market manipulation in the RIN markets and took actions in 2019 (https://www.govinfo.gov/content/pkg/FR-2019-06-10/pdf/2019-11653.pdf) to increase transparency and deter potential manipulative and anti-competitive behaviors in the RIN market. Additionally, while some have attributed the rise and fall in RIN prices to fraud and speculation, this may be the result of swings in market demand from SRE grants that the market did not anticipate. To address this, we noted in the Agency's response to the draft GAO report, "that SRE decisions, in particular for the 2016-2018 compliance years, contributed to significant volatility in RIN prices and uncertainty for all program participants due less to the timeliness of the decision and more to the outsize impacts they had on the demand for RINs. To address this, EPA finalized new regulations that applied first for the 2020 compliance year that project SRE volumes and reallocate those volumes to other program participants, helping to ensure a consistent demand for RINs (and the associated renewable fuels) and through that consistent demand, more consistent and predictable RIN prices."**

5. Do you believe that your proposed eRINs rule aligns with congressional intent from when Renewable Fuel Standard was initially enacted?

   **The proposed eRIN program aligns with Congress' goals of increasing energy security and reducing greenhouse gas emissions. It would support the Renewable Fuel Standard Program's mandate to increase the use of renewable fuels over time. EPA is currently evaluating public comments about the eRINs program in determining next steps.**

6. Is EPA proposing in that rulemaking to treat the auto manufacturers as obligated parties under the RFS by assigning them a renewable volume obligation? And if not, do you believe it is appropriate for EPA to set up a program whereby refineries will effectively be subsidizing electric vehicle manufacturers?

**Under EPA's eRIN proposal, automotive manufacturers would be the parties eligible to generate RINs for renewable electricity used in their in-use fleet. They would not become obligated parties. The obligated parties under the RFS program remain the petroleum refiners, blenders, and importers.**

**The proposed eRIN program aligns with Congress' goals of increasing energy security and reducing greenhouse gas emissions. It would support the Renewable Fuel Standard Program's mandate to increase the use of renewable fuels over time. EPA is currently evaluating public comments about the eRINs program in determining next steps.**

7. Without a clear requirement from Congress to set up the eRINs program, how do you justify its creation while simultaneously ignoring congressional intent as it pertains to small refinery exemptions?

**See answer to Senator Lummis's question #5.**

**Senator Mullin:**

1. In a recent letter to the state of Louisiana, the Environmental Protection Agency's (EPA) office of external civil rights chastised Dr. Brown, the head of the Louisiana Department of Environmental Quality (LDEQ), for public comments that it characterized as "questioning the scientific basis and significance of the Integrated Risk Information System (IRIS) inhalation unit risk [for chloroprene], and the advisability of reaching those concentration levels and risk levels." As an office that regularly uses IRIS values, do you agree that when questions about the scientific basis and significance of an IRIS value are raised, the Agency should fully consider the issues raised?

    a. Should there be an opportunity for public comment on the validity of an IRIS value in a regulatory process before it is used to impose requirements on a source?

**When EPA's Office of Air and Radiation proposes regulations, we welcome comments on all aspects of those proposals. The Integrated Risk Information System Program is administered by EPA's Office of Research and Development. Therefore, EPA's Office of Research and Development has the lead role for managing and developing IRIS assessments at EPA. If confirmed, I look forward to continuing to work with my colleagues in that office, as needed, to fulfill the duties assigned to me in the Office of Air and Radiation.**

2. The Inflation Reduction Act (IRA) applies a new fee to methane emissions that exceed a waste emissions threshold. The effort to conduct this calculation is time consuming and complicated, especially for smaller oil and gas businesses located in rural states like Oklahoma. What tool or tools is EPA developing to help operators easily conduct this calculation?

**EPA is currently in the process of developing the program to implement the waste emissions charge authorized by IRA Sec 60113, including program features that will help ensure efficient implementation for small operators. Congress structured the waste emissions charge so that it focuses on large oil and gas facilities (i.e., those with emissions greater than 25,000 metric tons CO2 equivalent) and that exceed statutorily specified waste emissions thresholds. To facilitate implementation of the waste emissions charge, the IRA directs EPA to revise its Greenhouse Gas Reporting Program regulations at 40 CFR Part 98, subpart W, by August 2024. EPA intends to meet the directive and timing set forth by Congress.**

3. The Inflation Reduction Act (IRA) requires EPA to impose and collect a waste emissions charge and allows this charge to be based on empirical data submitted by owners and operators of applicable facilities. Currently, the Greenhouse Gas Reporting Program contains emission factors and estimation methodologies rather than empirical emissions data. Considering the methane fee is scheduled to apply to 2024 emissions, when and how does EPA plan to revise its rules in a timely manner to allow operators to submit empirical emissions data?

   **The IRA directs EPA to revise its Greenhouse Gas Reporting Program regulations at 40 CFR Part 98, subpart W, by August 2024 to ensure the reporting under that subpart and calculation of the waste emission charge are based on empirical data, accurately reflect the total methane and waste emissions from the applicable facilities, and allow owners and operators of such facilities to submit empirical emissions data, in a manner prescribed by EPA, to demonstrate the extent to which the waste emission charge is owed. EPA intends to meet the directive and timing set forth by Congress.**

4. Considering EPA's aggressive approach to regulate Greenhouse Gas emissions, it is crucial that EPA considers the potential impacts that additional costly and burdensome regulations will have on our farmers and ranchers. Does EPA intend to involve agriculture in future emissions regulations?

   **Farmers and ranchers, and the food and fuel they produce, are keystones in our economy and our quality of life. Agriculture practices also impact our environment in many different ways, and as a result farmers and ranchers play significant roles in many of our programs. Our AgStar program, a voluntary partnership program in collaboration with the Department of Agriculture, provides technical and outreach support that supports farmers as they seek to manage their manure in ways that provide environmental and economic benefits. The program offers a range of technical information and resources aimed at helping the farming community better understand options for manure management systems. In addition, AgSTAR provides technical support to the Department of Agriculture's Renewable Energy for America Program which provides grants to farmers to install anaerobic digester systems.**

**EPA is committed to considering the needs of agricultural communities, as well as all other key stakeholders, as we assess the benefits and costs of regulations that will protect human health and the environment for all Americans.**

5. As EPA continues its ongoing efforts to directly regulate and lower methane emissions for the upstream and midstream segments for the oil and gas sector, how you do you plan to further collaborate with stakeholders to properly balance considerations to achieve this shared goal?

    a. Moreover, how would you make certain that the agency encourages innovation and continued investment in methane detection technologies that allows for further production and transmission of natural gas?

**EPA conducted robust stakeholder outreach and engagement as it developed its 2021 proposal and 2022 supplemental proposal to reduce methane emissions from the oil and gas sector. EPA is currently evaluating the public comments from those proposals. EPA's supplemental proposal would encourage the continued development of innovative technologies by including a clear and streamlined pathway for technology developers and others to seek approval for using advanced technologies to monitor for methane. EPA also expects that the Clean Air Act standards in the supplemental proposal would complement provisions of the Inflation Reduction Act, which will also incentivize early implementation of innovative methane reduction technologies and support methane mitigation and monitoring activities.**

**In addition, EPA administers voluntary programs that seek to encourage innovation and best practices for the oil and gas sector, including the Methane Challenge Partnership and the legacy Natural Gas STAR partnership.**

**EPA plans to continue to collaborate with industry stakeholders that want to share their innovative voluntary actions to reduce methane emissions "above and beyond" regulatory requirements.**

6. The EPA's mission is critical to the United States, but the agency's robust regulatory agenda, including planning to issue over 70 air regulations over the next couple of years, could threaten the important balance between environmental progress, competitiveness, and energy reliability amid a continuing period of economic uncertainty. How do you plan to ensure that the EPA appropriately maintains its statutory focus without impacting the availability of natural gas needed at home and abroad?

**Two things are spurring our oil and gas sector rulemaking. First, reducing methane emissions will take on one of the most potent pollutants causing climate change, which is already causing dangerous and costly impacts for Americans in the form of devastating wildfires, extreme weather like floods, and historic heatwaves. Reducing methane emissions has immediate health benefits for nearby communities because methane is emitted alongside other health-harming pollutants, including cancer-**

**causing pollutants like benzene and volatile organic compounds that contribute to smog. Second, the industry itself has recognized the need and opportunities to reduce methane pollution. Both our initial November 2021 proposed rule and the supplemental proposed rule we issued in November 2022 leverage those practical and cost-effective solutions that many leading oil and gas companies have been deploying for years, as well as innovative technologies for methane detection that the industry strongly supports. The proposed rules would lead to significant reductions in climate and health-harming pollution, with minimal impacts on energy production or prices. In addition to the health benefits, EPA expects that the proposal would deliver significant economic benefits through increased recovery of waste gas. Based on all the work we've done and everything we've heard from stakeholders, we are confident that we will be able to finalize a rule that gets significant climate and health benefits, that is achievable for the industry, and highly cost-effective.**

7. As you know, EPA is considering three independent California waivers relating to Heavy-Duty Trucks: Omnibus Low NOx Regulation, Heavy-Duty Vehicle and Engine Emission Warranty and Maintenance Provisions, and Heavy-Duty vehicle Zero-Emission rules. If approved, these waivers will set de facto national environmental standards for any motor carrier operating in interstate commerce. This is just another example of California pursuing radical and unachievable mandates and timelines for the trucking industry. Mr. Goffman, do you intend to cede the regulation of America's interstate commerce to the state of California by approving these waivers?

   **On June 13, 2022, EPA requested comment on three requests by California Air Resources Board for waiver of preemption, covering six regulations. We are currently reviewing the record, including the comments received, in determining whether to grant those waiver requests.**

8. Do you support the policy of prohibiting the sale of new light-duty vehicles with an internal combustion engine starting in 2035?

   **EPA is planning to issue a proposal in the coming weeks for new more stringent emissions standards for greenhouse gases and criteria pollutants for light-duty vehicles and Class 2b and 3 ("medium-duty") vehicles that would phase-in over model years 2027 and later. The proposal is currently undergoing interagency review.**

9. The EPA's light-duty vehicle standards and the latest Renewable Fuel Standard (RFS) Set Proposal assume high rates of electric vehicle purchases. Has the EPA considered including the lifecycle emissions associated with these vehicles from mineral resource extraction, vehicle, battery production, lifetime energy use from the current electric mix, and end-of-life processing and recycling into these two programs?

   **As a matter of course in Agency rulemakings and per relevant federal executive orders and guidance, EPA prepares a regulatory impact analysis (RIA) to quantify the likely benefits and costs of certain regulatory options. Describing the effects of EPA rules is an important part of our obligation to be transparent in how we conduct**

**our analyses. Each RIA is prepared in accordance with Executive Orders and OMB guidance, and the Agency's guidelines for economic analyses.**

10. Did you ever meet with the automakers to discuss EPA's light-duty vehicle standards and electric RINs in the same meeting? If so, is EPA working to tie these programs together to in an effort to incentivize electrification?

    **As part of my commitment to engaging with everyone with a stake in the actions of the Office of Air and Radiation, I have had numerous meetings with automotive manufacturers where we have discussed a range of topics, including vehicle standards, fuels programs, and investment choices that manufacturers are making.**

11. When it comes down to it, reliability is the preeminent measurement of America's electrical grid performance. On the "Good Neighbor" Plan, did you consult with grid operators on how this proposal could impact our electric grid reliability?

    a. If you did, why are they still submitting comments to the docket and making statements expressing concerns about the rate of retirement of baseload generation assets?

    **Whenever EPA works on clean air protections for the power sector, we put ensuring reliability in a top priority position right alongside affordability and achieving cleaner and healthier air. Families and businesses all across America depend on having a reliable supply of affordable electricity for their livelihoods and well-being, and we take reliability considerations very seriously in developing regulations.**

    **In over 50 years of implementing the Clean Air Act, EPA and OAR have established a strong track record of developing air quality protections that save lives, deliver clean and healthy air, and allow power companies to deliver reliable and affordable electricity. That's not by accident. As we work on any clean air rule for the power sector – including the rules we are developing right now – we carefully assess implications for electric reliability and cost as an integral part of our technical analysis, and where appropriate build in policy features that are specifically intended to support the industry's ability to ensure reliability.**

    **EPA also actively engages directly with the electricity sector in the course of our rulemakings, including system operators, state regulators, DOE, FERC, and other parties that have responsibility for ensuring reliability and affordability in the electric supply. In addition, DOE and TVA, among other agencies, participate in interagency reviews of rules before they are signed. EPA held multiple meetings with reliability authorities to discuss the proposed Good Neighbor Plan for the 2015 ozone NAAQS, including MISO, SPP, ERCOT, PJM, and balancing authorities in the Western and Southern U.S. We also engage broadly with stakeholders who are responsible for reliability in the power sector, including investor-owned utilities; municipal utilities; rural electric cooperatives; state energy and environmental regulators; and grid operators, to make sure we are working from the best possible information and**

**addressing reliability issues appropriately. Lastly, we regularly confer with other expert agencies like DOE and FERC outside the interagency review process.**

**This is the time-tested approach we have followed on this regulatory action, supplemented with additional engagement.**

**In support of our work addressing reliability, the Department of Energy (DOE) and EPA signed a Joint Memorandum of Understanding (MOU) on Interagency Communication and Consultation on Electric Reliability on March 9. This agreement provides a framework for both agencies to unlock the reliability advantages of the growing clean energy economy. It builds upon longstanding engagement from DOE and EPA with the power sector and further commits the agencies to routine and comprehensive communication about policies, programs, and activities regarding electric reliability. This includes sharing information and analysis, and ongoing monitoring and outreach to key stakeholders to proactively address reliability challenges.**

12. The Supreme Court's decision in *West Virginia v. EPA* made clear that the agency needs to implement the Clean Air Act without overstepping its delegated authority. How will you ensure EPA respects the Major Questions doctrine as you continue to develop rulemakings generally?

    a. When is EPA planning to propose a replacement to the Clean Power Plan rule specifically?

**EPA takes seriously its obligation to effectively implement the statutes enacted by Congress, to do so for the benefit of the American people, and to do so consistent with legal requirements. Those legal requirements encompass all Supreme Court holdings, and we are committed to following the direction of the Supreme Court in *West Virginia v. EPA*. Part of EPA's process is to clearly explain the legal authority for proposed rules in the Federal Register and to respond to public comments. We are committed to taking actions firmly anchored in the law as set forth by Congress and the Supreme Court. EPA plans to issue proposals for carbon pollution standards for new fossil fuel-fired power plants and carbon pollution emissions guidelines for existing fossil fuel-fired power plants this spring.**

13. Your office recently finalized a reconsideration action on the Miscellaneous Organic National Emission Standards for Hazardous Air Pollutants (NESHAP). In the response to comments in that rule, the Agency indicates that it is not concerned that the IRIS value for Ethylene Oxide had not gone through the process envisioned by the National Academy of Sciences (NAS) recommendations for improvements to the IRIS development process. The Agency's reasoning was the ethylene oxide IRIS value had gone through peer review and there was no reason to believe that following the recommendations would have resulted in a different outcome. If this is the cause, why is EPA spending taxpayers' money to improve the IRIS process when your office just finalized a rule that effectively says that the

Agency's processes that did not incorporate them were sufficient to produce a value that the agency is completely confident in?

**When EPA's Office of Air and Radiation proposes regulations, we welcome comments on all aspects of those proposals. The Integrated Risk Information System Program is administered by EPA's Office of Research and Development. Therefore, EPA's Office of Research and Development has the lead role for managing and developing IRIS assessments at EPA. If confirmed, I look forward to continuing to work with my colleagues in that office, as needed, to fulfill the duties assigned to me in the Office of Air and Radiation.**

14. Your office is under a deadline to review and, if necessary, propose revisions the Hazardous Organics NESHAP by the end of March. Despite having no legal obligation to do so your office has committed to Environmental Non-Governmental Organizations (ENGOs) that it will impose additional requirements as a result of perceived risks associated with ethylene oxide. Based on EPA air monitoring, it appears likely that for most if not all facilities subject to the regulations, the concentration of ethylene oxide in the air around them is indistinguishable from normal range. Given this, how does it make any sense to regulate a pollutant where air quality is already generally indistinguishable from background and when doing so results in air quality that that is not measurably different?

    **EPA is subject to a court-ordered deadline to review under Clean Air Act section 112(d)(6), and revise as necessary (taking into account developments in practices, processes, and control technologies), the National Emission Standards for Hazardous Air Pollutants (NESHAP) for the synthetic organic chemical manufacturing industry (SOCMI) (generally known as the Hazardous Organic NESHAP or HON). EPA is required to sign a proposed rule containing all such necessary revisions by March 31, 2023, and a final rule by March 29, 2024. As mentioned in the consent decree imposing these deadlines, EPA has separately stated its intention to conduct a human health risk assessment concurrently with the section 112(d)(6) review and, based on the results of this risk assessment, to take appropriate action to ensure that the standards in the HON continue to provide an ample margin of safety to protect public health. The draft proposed rule is currently under interagency review.**

**Senator Wicker:**

1. Last year, the Government Accountability Office (GAO) issued a report on small refinery hardship. The report recommended the Environmental Protection Agency (EPA) reassess its conclusion that small refineries pass their Renewable Fuel Standard (RFS) compliance costs onto consumers. This calls into question EPA's blanket denial of over 60 small refinery exemption petitions for the 2019, 2020, and 2021 compliance years. Then, in January, the U.S. Court of Appeals for the Fifth Circuit issued a decision related to RFS compliance obligations for two small refineries. The Court suggested EPA's new interpretation of small refinery hardship violates the Clean Air Act because it "quite

possibly will read the exemption framework promulgated by Congress out of the statute entirely, such that no small refinery will ever qualify for one." This order follows the December 27, 2022 order granting a stay pending appeal for a small refinery in the U.S. Court of Appeals for the Eleventh Circuit, which also indicated a finding of likelihood of success on the merits. I am concerned EPA has decided to eliminate unilaterally a program authorized in the Clean Air Act, which is critically important to small refiners across America. How does EPA intend to respond to the GAO report and recent appellate court rulings?

**EPA does not agree with GAO's findings or the recommendation to reassess previous actions. As noted, EPA's 2022 Denial Actions have been challenged and those challenges are currently pending. Since EPA's actions in 2022, EPA has received petitions from small refineries seeking exemption and we continue to review those petitions, in consultation with DOE. Please see the answer to Senator Capito's question # 20 for a more detailed response related to the analysis of RIN prices faced by small refineries.**

**Senator Sullivan:**

1. The EPA is finally confronting an issue that Alaska has been a leader on since the 1970s – that is, reducing methane emissions. Alaska's laws prohibit the waste of resources in the state, and the Alaska Oil and Gas Conservation Commission has strictly regulated this issue since 1971. However, EPA is deputizing rogue NGOs and other entities to "3rd party audit" industrial facilities to look for methane leaks. How will third-party monitoring work on Alaska's North Slope, where security restrictions prevent public access, and winter temperatures of 40 below zero would involve safety risks for untrained and unprepared third-party monitors?

   **We recognize that weather conditions on Alaska's North Slope can be challenging, and EPA's two proposals to reduce methane emissions from oil and gas operations include several requirements that would be different for that area than for other parts of the U.S. The comment period on the supplemental proposal closed February 13, 2023, and we will be carefully considering the more than 400,000 comments we have received, including comments regarding the conditions pursuant to which third parties could be authorized to perform monitoring under the proposed super emitter response program. We intend to finalize requirements that achieve the greatest possible reductions in emissions of methane and smog-forming VOCs, are cost-effective, promote technological innovation, and are anchored in science and the law.**

2. The EPA is responsible for certifying wood stoves, a job they've failed miserably at performing. Wood burning accounts for up to 90 percent of the air quality issues in Fairbanks and North Pole, communities that on certain winter days can (perhaps surprisingly) have the worst air quality in the nation. Alaska established a program to

replace 25-year old or older dirty stoves with what we thought were newer, cleaner burning stoves certified by EPA's wood stove certification program. Unfortunately, what the State of Alaska found is that many of the stoves that were replaced were emitting as much or more than their predecessors. In fact, EPA's wood stove certification program is now in such disarray that the Inspector General's (OIG) office opened an investigation. They brought a nationwide team last January to Alaska to try to understand the extent of the problem. Some of the stoves Alaska retested emit over 20 times EPA's certified value. Seeing this, if our communities were to continue to rely on EPA's "certification" program, we may be forced to move away from wood stoves altogether – which is not an option. Do you agree with the conclusions from the OIG Report?

a. Tens of millions of dollars of targeted airshed grants have gone to replace old, bad stoves with new, bad stoves. What is EPA doing about their woodstove certification deficiencies?

**EPA welcomes the Office of the Inspector General's (OIG's) attention to testing and certification concerns for residential wood heaters. Residential wood heaters are an important source of heat for many families and communities, but they can also cause significant health and air quality harms when they are not designed and operated to meet Clean Air Act requirements. We know this is an urgent concern for states and communities in regions of the country that rely on wood for heat, especially interior Alaska. As EPA noted in its response to the OIG's draft report, we agree that it's essential to ensure that residential wood heaters that are sold to consumers are clean-burning and comply with Clean Air Act protections.**

**We are committed to working with the OIG to reach a resolution on these recommendations, and to working with Alaska, NESCAUM and other stakeholders to take other steps as needed to strengthen our testing and certification program for residential wood heaters. EPA's Office of Air and Radiation has taken a number of steps to strengthen our testing and certification requirements for new wood heaters and to lay the groundwork for future improvements to our regulations. In addition, through the Targeted Airshed Grants, EPA is supporting the diversification of heating options available to residents of Fairbanks and North Pole, including natural gas and pellet stoves.**

**EPA's Office of Enforcement and Compliance Assurance has also taken steps to improve the overall Residential Wood Heater Program.**

3. A big issue in Alaska is PFAS contamination. We are currently dealing with at least 100 sites contaminated by PFAS—so-called 'forever' chemicals—potentially threatening the safe drinking water of many Alaskans. Because of this, I was glad to see provisions included in the FY 2020 NDAA on thermal treatments to remediate soils contaminated with PFAS. Alaska is unique and thermal remediation is particularly important because transportation costs make other forms of destruction and disposal impracticable. We know that a one-size-fits-all approach to PFAS remediation just won't work in Alaska, which is

why we've been anticipating EPA releasing its updated interim guidance on thermal treatments to remediate soils contaminated with PFAS. Does EPA have a timeline as to when it would be able to make a recommendation regarding thermal treatment in the updated interim guidance it is required by law to issue this year?

**EPA's Office of Land and Environmental Management (OLEM) is leading a cross-agency team that is developing this action. It includes input from the Office of Air and Radiation and from other agency subject matter experts. EPA is taking significant steps toward updating our research and guidance on PFAS destruction and disposal.**

4. How does EPA plan to work with the State to gain approval for their PM 2.5 SIP?

   **EPA appreciates that Alaska faces significant air quality challenges due to a variety of factors such as geography, availability of energy sources, and the prevalence of wood stove usage, among others. EPA and the Alaska Department of Environmental Conservation communicated regularly during the PM2.5 SIP development process, and we thank the state for their continued dialogue and engagement. Even though EPA proposed a partial approval and partial disapproval of some portions of the Fairbanks PM2.5 SIP, EPA continues to work closely with the Alaska Department of Environmental Conservation and the Fairbanks North Star Borough to help Alaska update and implement its PM2.5 attainment plan to address Clean Air Act requirements – and to address the woodstove and facility emission control challenges, among others, that the State and Borough have identified. You have my commitment to continue working with the State, the local government, the stationary sources, the Alaska Native Regional Corporation, and other relevant stakeholders to ensure that Alaskans can benefit from breathing clean air without threatening their ability to heat their homes or keep the lights on.**

5. In January 2023, the Governor of Alaska introduced two bills intended to support lower emissions. One of those bills would put in place a regulatory framework for the underground storage of carbon dioxide – the State intends to pursue primacy for Class VI wells. Are you aware that there are over 30 Class VI well applications and at least two state primacy applications languishing at EPA?

   a. If confirmed, will you work to break this bottle neck and speed approvals of Class VI well and primacy applications?

   **EPA's Office of Water has the lead role for this issue at EPA. If confirmed, I will continue to work with my colleagues in the Office of Water, as needed, to fulfill the duties assigned to me in EPA's Office of Air and Radiation. I commit to sharing this issue with my colleagues in the Office of Water.**

6. During the Covid-19 pandemic, states operating delegated Clean Air Act programs were granted flexibility to conduct virtual inspections using tools like a cell phone we all carry – operators could tour facilities and show live information to compliance inspectors on what was going on. For facilities with good records on compliance and enforcement, states

should be allowed to use those virtual inspection tools and get credit for those inspections going forward. Technology can be a powerful tool: virtual inspections save time and money for remote travel to locations with good compliance histories. Onsite inspections should not be a requirement on State Compliance Monitoring Strategies. Will EPA consider eliminating the requirement of onsite inspections for State Compliance Monitoring Strategies?

a. Will EPA consider allowing States the flexibility to conduct inspections in a way that is reliable yet cost-effective, and will allow us to reduce our carbon footprint?

**EPA's Office of Enforcement and Compliance Assurance has the lead role for this issue at EPA. If confirmed, I will continue working with my colleagues in the Office of Enforcement and Compliance Assurance, as needed, to fulfill the roles assigned to me in EPA's Office of Air and Radiation.**

**Senator Graham:**

1. As the Administration pushes toward electrification of the transportation sector, how is your office ensuring electrification is not driving further reliance on China for critical minerals?

    a. How specifically is the EPA balancing the push for electrification and our ability source critical minerals and transportation fuels domestically?

**On February 24, 2021, President Biden issued E.O. 14017, "America's Supply Chains," directing the government to review critical U.S. supply chains to identify risks, address vulnerabilities, and develop strategies to strengthen resilience. In June 2021, the Biden-Harris Administration issued a supply chain assessment that found our over-reliance on foreign sources and adversarial nations for critical minerals and materials posed national and economic security threats. In addition to working with partners and allies to diversify sustainable sources, the reports recommended expanding domestic mining, production, processing, and recycling of critical minerals and materials—all with a focus on strong labor, environmental, environmental justice, community engagement, and Tribal consultation standards.**

**EPA is involved in a number of interagency efforts aimed at improving critical minerals supply chain resilience and domestic sourcing including:**

- **The DOI-led Interagency Working Group (IWG) on reforming hardrock mining laws, regulations and permitting policies in the United States;**
- **The critical minerals subcommittee under the President's Permitting Action Plan;**
- **Developing guidelines for battery recycling best practices and labeling to increase the amount of critical minerals recovered from recycling;**
- **Participating with other agencies in evaluating the potential for reprocessing of mine wastes to recover critical minerals;**

- **Improving the NEPA process and some permitting processes for domestic critical minerals mining projects; and**
- **Establishing an EPA Supply Chain/Critical Minerals Working Group to respond to E.O. 14017 with Office of Policy as the lead office and participants from the national program offices, regions, and EPA's National Mining Team.**

2. What will be the demand on the grid if EVs make up half of new auto sales by 2030? Can the increased load be met without additional natural gas infrastructure?

   **EPA is planning to issue a proposal in the coming weeks for new more stringent emissions standards for greenhouse gases and criteria pollutants for light-duty vehicles and Class 2b and 3 ("medium-duty") vehicles that would phase-in over model years 2027 and later. The proposal is currently undergoing interagency review. This proposal will be accompanied by a regulatory impact analysis (RIA) to quantify the likely benefits and costs of certain regulatory options. Describing the effects of EPA rules is an important part of our obligation to be transparent in how we conduct our analyses. Each RIA is prepared in accordance with Executive Orders and OMB guidance, and the Agency's guidelines for economic analyses.**